

DATE: June 9, 2016

AGENDA ITEM: B

TO: BSCC Chair and Members

FROM: Aaron R. Maguire, General Counsel, aaron.maguire@bscc.ca.gov

SUBJECT: Statement of Incompatible Activities (Gov. Code, § 19990): **Requesting Approval.**

Summary

Government Code section 19990 requires all state departments to adopt a statement of incompatible activities. This item requests the Board to adopt a new statement of incompatible activities, which has not been updated since 2006.

Background

Government Code section 19990 requires that no employee of state government engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee. As such, each department is required to determine those activities which, for employees under its jurisdiction, are inconsistent, incompatible or in conflict with their duties as state officers or employees. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

- (a) Using the prestige or influence of the state or the appointing authority for the officer's or employee's private gain or advantage or the private gain of another.
- (b) Using state time, facilities, equipment, or supplies for private gain or advantage.
- (c) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.
- (d) Receiving or accepting money or any other consideration from anyone other than the state for the performance of his or her duties as a state officer or employee.
- (e) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.
- (f) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.
- (g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.

In addition to the statutory requirements, section 599.870 of Title 2 of the California Code of Regulations also requires that the hiring authority undergo a rulemaking process before adopting or revising its statement of incompatible activities. This process includes providing notice to affected employees and an opportunity for written comment. The revised statement of incompatible activities must then be filed with the California Department of Human Resources.

Attached is a draft statement of incompatible activities, updated to reflect the Board's organizational structure.

Recommendation/Action Needed or Information

Approve the updated statement of incompatible activities and direct staff to begin the adoption process.

Attachments

- B-1: Draft incompatible activities statement
- B-2: Cal. Code Regs., tit. 2, § 599.870
- B-3: Gov. Code, § 19990